International Total Services, Inc. *and* **General Service Employees Union, Local 73, Service Employees International Union, AFL-CIO** *and* **Local 25, Service Employees International Union, AFL-CIO and Service, Safety, Maintenance and General Workers Union, Local No. 1, United Brotherhood of America, Party in Interest.** Cases 13-CA-20761, 13-CA-20774, 13-CA-20918, and 13-CA-20784

15 May 1984

DECISION AND ORDER

BY CHAIRMAN DOTSON AND MEMBERS HUNTER AND DENNIS

On 22 June 1982 Administrative Law Judge Marion C. Ladwig issued the attached decision. The General Counsel filed exceptions and a supporting brief. On 24 August 1982 the Respondent timely filed a "Motion to Dismiss" the action in its entirety and a supporting brief which alleged that its activities and its employees were subject to the Railway Labor Act and that the National Labor Relations Board lacked subject matter jurisdiction over the case. The Respondent also filed a motion to stay the date for filing its brief in response to the General Counsel's exceptions and for filing its cross-exceptions and brief in support. The Respondent then filed cross-exceptions and an answering brief. Both the General Counsel and the Charging Party filed briefs in opposition to the Respondent's "Motion to Dismiss."[1]

On 16 December 1982 the Board issued an Order remanding the case to the judge for the purpose of reopening the hearing to receive evidence on whether the Respondent is an employer under Section 2(2) of the National Labor Relations Act. The Board further instructed that, upon receipt of such evidence, the judge was to transmit the case to the Board for a determination of whether jurisdiction was properly exercised over the Respondent's operations in this proceeding.

In accordance with the Board's remand order, a hearing on the jurisdictional issue was held before the judge 2 March 1983. Thereafter, the judge promptly transferred the case back to the Board. All parties subsequently filed briefs relating to the jurisdictional question.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the entire record in light of the exceptions, cross-exceptions, motion to dismiss, and all the various briefs filed by the parties and has decided to affirm the judge's rulings, findings, and conclusions only to the extent consistent with this Decision and Order.

The record reveals that the Respondent, an Ohio corporation, provides security guard, janitorial, and maintenance services to various airlines and other customers from its offices in Des Plaines, Illinois. In January 1980, the Respondent purchased two wholly owned subsidiaries from American Airlines. With this acquisition, the Respondent assumed operation of the security and related services for American Airlines at O'Hare International Airport, until the Respondent's contract with American Airlines expired in July 1982. The Respondent also provided wheelchair escort and baggage services for that same airline at that same location.

The Respondent contends that, because of its relationship to American Airlines, its activities are subject to the Railway Labor Act. In this connection, the Respondent claims that deferral to the National Mediation Board is not only consistent with prior Board determinations, but also is in accordance with prior National Mediation Board opinions involving the Respondent's security operations at other airports. In support of its contention, the Respondent relies on *International Total Services*, 9 NMB No. 117 (1982), which involved similar security services performed by the Respondent for American Airlines at the Dallas/Ft. Worth Airport in Texas. The Respondent contends that its O'Hare operations are identical to its Dallas/Ft. Worth operations in that in both instances the services performed relate to the transportation of passengers by a common carrier by air and remain subject to the control of the common carrier to whom they are provided. To the contrary, the General Counsel and the Charging Party contend that the Respondent's operations are properly within the Board's jurisdiction, that the National Mediation Board's assertion of jurisdiction over the Respondent's Dallas/Ft. Worth operations should not be dispositive of the instant dispute, and that unlike the Respondent's operations at the Dallas/Ft. Worth Airport, the Respondent's operations at O'Hare Airport were not devoted to American Airline's exclusive use.

Section 2(2) of the Act provides in pertinent part that the term "employer" as used in the Act should not include any person subject to the Railway Labor Act. Accordingly, because of the nature of the jurisdictional question presented here, we requested the National Mediation Board to study the

[1] We have rejected the General Counsel's contentions that the Respondent's jurisdictional challenge was asserted in an untimely fashion. We view Sec. 2(2) of the Act to be a statutory limitation on the Board's jurisdiction which may be raised at any time. *Anchortank, Inc.*, 233 NLRB 295 fn. 1 (1977); *Gateway Motor Lodge*, 222 NLRB 851, 852 (1976).

record in this case and to determine the applicability of the Railway Labor Act to the Respondent. In reply, we were advised by the National Mediation Board that, based on the above facts, "the activities of ITS [the Respondent] in Chicago [excluding its non-airport and non-airline client operations which were not at issue here], and the employees performing those activities, are subject to the Railway Labor Act."[2] In view of the foregoing, we shall grant the Respondent's "Motion to Dismiss."

ORDER

The Respondent's "Motion to Dismiss" is granted and the complaints are dismissed.

[2] *International Total Services*, 11 NMB No. 24 (1983).

DECISION

STATEMENT OF THE CASE

MARION C. LADWIG, Administrative Law Judge. These cases were tried in Chicago, Illinois, September 30 and October 1–2, 1981. The charges were filed by Local 73 on January 16 and 22 and March 9, 1981,[1] and by Local 25 on January 26; complaints were issued March 6 and April 9 and 15; and orders consolidating the cases were issued March 6 and May 5.

The cases arose while the Company, the Respondent, was attempting to replace SEIU Locals 73 and 25 with an independent union, UBOA Local 1. The primary issues are whether the Company (a) unlawfully coerced employees to abandon Locals 73 and 25 by proposing the independent union, by offering Local 73 Steward Pia Teague a management position, and by offering a larger wage raise without Local 25; (b) solicited employees to sign authorization cards for Local 1; (c) discriminatorily discharged Union Steward Teague; (d) coercively interrogated, threatened to discharge, and reduced the working hours of another union supporter to discourage support of Local 73; (e) threatened to discharge employees if they engaged in a strike and promised double time if they reported to work; and (f) unlawfully discharged 22 employees for striking, in violation of Section 8(a)(1), (2), and (3) of the National Labor Relations Act.

Upon the entire record, including my observation of the deameanor of the witnesses, and after consideration of the briefs filed by the General Counsel and the Company, I make the following

FINDINGS OF FACT

I. JURISDICTION

The Company, an Ohio corporation, provides guard, janitorial, and maintenance services to airlines and other customers from its offices in Des Plaines, Illinois, where it annually performs over $50,000 in services to customers located outside the State. The Company admits, and I find, that it is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act and that SEIU Locals 73 and 25 and UBOA Local 1 are labor organizations within the meaning of Section 2(5) of the Act.

A. *Background*

In January 1980, the Company purchased from American Airlines two wholly owned subsidiaries, Security '76, Inc., and Management in Maintenance, Inc. (called MIMI). Security '76 had a collective-bargaining agreement with Local 73, covering "guards, security guards, airport security officers and field officers" in the Chicago Metropolitan Area, Area A, which included the preboard security guards at the security checkpoint of American Airlines at its O'Hare passenger terminal, for a term from July 1, 1979, to June 30, 1980.

MIMI, the other subsidiary of American Airlines, had a separate agreement with Local 73, covering these same employees and other security personnel in Area A, as well as security personnel in the adjoining Area B of the Chicago Metropolitan Area, for a term from July 1, 1977, to June 30, 1980. Security '76 and MIMI also had agreements with Local 25, covering janitorial employees.

Upon purchasing these American Airlines subsidiaries, the Company notified Local 73 that it had done so and that it would assume "the labor contract covering Security Services at O'Hare International Airport with an expiration date of June 30, 1980." In March 1980, Local 73 sent the Company a copy of its proposal to the Associated Guard and Patrol Agencies. The Company was not a member of the association, and refused to sign the new association agreement, which became effective August 27 and which provided for higher wage rates, including a beginning wage of $3.40 an hour for airport security guards.

At their last prestrike negotiating session on January 14, the only remaining contractual problem was the wage rates for the airport security personnel. (Tr. 385.) The Federal minimum wage had been increased to $3.35 an hour, and the Company offered to pay the new $3.35 minimum as the beginning wage, and $3.60 after 12 months of employment. It refused Local 73's demand that the employees be paid the new association beginning wage of $3.40, and $3.90 after 12 months, retroactive to August 27. Local 73 was proposing the same bargaining unit contained in the expired 1977–1980 MIMI agreement, covering security personnel in both Areas A and B. It was willing to agree to a separate agreement for the airport guards (Tr. 51–53), but it insisted on the new association wages, paid retroactively.

On January 16, Local 73 went on strike. The strike was settled June 5, when the discharged union steward (G.C. Br. at 21, fn. 13) and the strikers who wanted to return to work were reinstated.

B. *Support of Independent Union*

In November, about 3 months after the Company refused to pay the new association rate for preboard secu-

[1] All dates are from August 1980 until June 1981 unless otherwise indicated.

rity guards at the airport, the Company began a campaign to replace SEIU Local 73 with the independent union, UBOA Local 1. It is undisputed, as credibly testified by Local 73 Steward Pia Teague (now Pia Teague Davis), Operations Vice President Arthur Dern invited her to lunch at an O'Hare airport restaurant and introduced her to a Local 1 business agent. In Dern's presence, the Local 1 representative told Teague that he could set up a contract with the Company, that he could promise the employees a raise, and that he could give Teague "more benefits out of it, like travel or becoming a business agent." (Tr. 76.)

It is also undisputed that about this same time, as wheelchair escort Bernard Artis credibly testified on cross-examination by company counsel, the Company "tried a sneak a union in the back"—for the wheelchair escorts, who were not in the bargaining unit. (Tr. 279.) The effort was frustrated, however, when Artis reported the attempt to Union Steward Teague, who gave the escorts Local 73 cards to sign.

Shortly after Local 73's January 16 strike began, the Company extended the campaign by encouraging the janitorial and maintenance employees to replace Local 25 as their representative. It is undisputed that on January 18, as janitor Olelia Rosabal credibly testified, Vice President Dern told her that he had a friend from another union. (Tr. 292, 295.) They were talking at the American Airlines checkpoint, discussing a raise for the janitorial and maintenance employees. After indicating that the employees would received a larger raise if they were not represented by Local 25—by telling her that the Company was willing to provide the employees a raise to $5 or $6 an hour but it wanted to make sure that the money would wind up in the employees' and not Local 25's pockets (Tr. 295)—Dern mentioned the friend "from another union" and said if she wanted to meet the friend, he would introduced her and "You talk to him, you tell him your problems and you take it from there." (Tr. 292.)

Other supervisors were active in supporting the independent union among the employees represented by Local 25. In the presence of other employees, Third-Shift Supervisor Charles James gave maintenance employee Price Ruff a UBOA Local 1 card and told him to fill out and give it back to him. James also passed out the cards to other employees, telling him that he wanted a new union, and if they did, this was the card. (Tr. 300–301.) It is also undisputed that Supervisor John Carter asked janitor Rosabal, "Olilia, do you known that everybody is getting cards from another union? Some of the employees showed Rosabal their Local 1 authorization cards. (Tr. 296–297.) (I note that the Company filed an RM petition in response to the Local 1 cards, but withdrew the petition after the complaint was issued in Case 13–CA–20784, alleging Section 8(a)(1) and (2) violations. (Tr. 15.)

Meanwhile, the Company was still seeking the replacement of the striking Local 73. It is undisputed, as credibly testified by employee Anthony Roman, that after he was hired as a strike replacement in February, Supervisor Kay Olander handed him a Local 1 card, instructed him to fill it out and hand it back, and he did. (Tr. 303-304.)

As alleged in the first complaint, I find that the Company arranged and initiated the meeting between Union Steward Teague and the representative of the independent union in November for the purpose of coercively inducing employee support of the independent union and the discouraging support for Local 73, in violation of Section 8(a)(1) of the Act. I find as alleged in the second complaint that in January, Dern indicated to an employee that the Company would grant a larger raise if she was represented by SEIU Local 25 in violation of Section 8(a)(1), and company supervisors solicited employee signatures on UBOA authorizations cards, unlawfully assisting UBOA Local 1 in violation of Section 8(a)(2) and (1) of the Act. Further, as alleged in the third complaint, I find that Supervisor Olander's solicitation of an employee's signature on a UBOA authorization card during the strike constituted unlawful assistance to UBOA Local 1 in violation of Section 8(a)(2) and (1).

C. *Discharge of Union Steward*

1. Inducements to abandon union

Pia Teague had been Local 73's union steward at the airport for 4 years.

In September, after refusing to pay the new association wage rates at the airport, the Company indicated its displeasure with Teague's leadership. It is undisputed, as Teague credibly testified, that Vice President Ronald Waldran (in the presence of Vice President Dern) told her "there was no way of their considering a 40 cent increase and it was not right" for her to tell the employees about that increase in the new association agreement. She responded that she was a union steward "and I had the right to tell the people what I so desired to tell them." (Tr. 74, 109.)

In November, when the Company began its campaign to replace Local 73 with an independent union, it made two futile efforts to induce Teague to abandon Local 73. The first, discussed above, was its introduction of her to the UBOA Local 1 business agent, who in Vice President Dern's presence, said he could promise the employees a raise and Teague "more benefits out of it, like travel or becoming a business agent." Teague indicated no interest.

About a week later, Dern made the second effort. It is undisputed, as Teague credibly testified, that he asked her "didn't I think it was about time that I started getting something out of this for myself other than just doing things for other employees." He offered her a management position and "I told him there was no way that I could leave there going to something else when everyone else would not get anything out of it." He asked about Local 73 picketing, and she said she did not know what would happen. He added, "I hope you all don't get hurt in the process." (Tr. 77.) It is also undisputed that Dern told her in the same conversation that the Company was not going to sign a contract with Local 73, "that they did not want them as a union." (Tr. 73.)

Immediately before the final prestrike bargaining session, at which the Company again refused to pay the new association rates at the airport, Dern called Teague aside and handed her a termination letter, accusing her of violating two company rules that the Company had never issued. The following afternoon, Local 73 notified the Company that it had "no other course of action to follow but to strike your Company at various locations."

As alleged in the first complaint, I find that the Company's offer of a management position to Union Steward Teague in November was to dissuade her from engaging in union activity and violated Section 8(a)(1) of the Act.

2. Her discharge

After the Company purchased Security '76 a year earlier, Union Steward Teague and other preboard screening guards had many conferences with Robert Taylor, American Airlines' passenger services supervisor, about problems and the work. (Tr. 242.) Taylor continued to be "in direct charge of the security checkpoint." (Tr. 248.) Although the employees worked under company supervisors, Taylor "would you go out to the checkpoint and ask various people how everything was going, were there any specific problems." (Tr. 242.)

As Union Steward Teague credibly testified, "I always talked to Mr. Taylor." (Tr. 105). On one occasion when employee Jose Vega was discharged, Vice President Dern told Teague "there was nothing he could do because Robert Taylor wanted him fired." Teague discussed the matter with Taylor and persuaded him to permit the Company to reinstate the employee. It is undisputed that Teague had never warned about talking to Taylor. (Tr. 83.)

Taylor was aware that the employees had been working without a contract for several months. He was concerned about the progress of negotiations and had asked Vice President Dern about them. (Tr. 247–248.)

On Janaury 123, the day before the last negotiations preceding the January 16 strike, Teague (in the presence of her supervisor, Genevieve Izzo) saw Taylor in the hallway and asked if she could speak to him. He said yes, in his office. It is undisputed that Teague asked Supervisor Izzo for permission to go, and that Izzo said she could. (Tr. 78).

As recalled by Teague and Taylor (both of whom appeared to be honest witnesses, doing their best to give an accurate account of what happened), they discussed the labor dispute. Taylor asked Teague if the Union and the Company had reached a settlement, and she answered no. (Tr. 103.) She said she was concerned because she did not want a recurrence of what happened in 1977 (when the first shift walked off the job and were discharged). (Tr. 79.) She said the employees had been talking among themselves about picketing for some time (Tr. 104) and that she was afraid there would be a walkout, and he said he hoped nothing like that would happen again (Tr. 107). She complained that the new supervisor, Alfred Figueroa, was "antagonizing people on the floor, talking about changing their off-days and not using seniority in doing so and they had a lot of employees who had weekends off and had a lot of seniority that he was trying to take away from." (Tr. 80.) She said, "that his primary job in her estimation was to come in and bust the union." (Tr. 241.) He responded, "Well, that's an assumption on your part, and I really can't comment on it, because I don't have the latitude that I had" when Security '76 was a subsidiary of American Airlines. (Tr. 242.)

In the same conversation, as Taylor credibly testified, Teague said it appeared that Local 73 would go on strike and "I want you to know that we have contacted the other . . . guard agencies, and they will most likely honor our picket lines." (Tr. 240.) They talked about where the picketing would take place, and she said "by the checkpoint," and "we believe that they will honor our picket lines." (Tr. 241, 251.) When specifically asked if she said they would probably set up pickets in various locations throughout O'Hare, Taylor positively answered, "She did not say that," but said "other services or other organizations that provide guard services would honor their picket lines." (Tr. 251.)

Taylor reported the conversation to Vice President Waldran, who gave his assurance that if a strike did occur, the Copmany would have sufficient people to handle the operation.

The next morning, before the final negotiations preceding the strike, Vice President Dern gave a copy of Teague's discharge letter (G.C. Exh. 5) to the Local 73 representatives, who stated "that was a hell of a way to start out a negotiating meeting." (Tr. 368.) Dern then gave the letter to Teague, who Local 73 Representative Richard Wesley said was still a chief steward. She remained in the negotiations, which did not resolve the dispute over wages, or Local 73's demand that the union steward be reinstated. (Tr. 373.)

The discharge letter stated that she had violated company rules that "Employees are not to discuss company business with clients," and "Do not make false or slanderous statements about the company, its employees or its clients." The letter falsely stated that she threatened that the Union would close "several checkpoints at O'Hare if a strike was called, and implied that . . . Mr. A Figueroa . . . was brought in . . . to cause Union members to quit." The letter added

> These false and slanderous statements have created grave concern to our client, American Airlines, and have seriously jeoparized our customer relations, by damaging our customers' faith in our ability to provide continuous quality service, and impugned our reputation of fair play with our employees and by implying that [the Company] is refusing to bargain in good faith with the Union and our employees and using unfair labor practices.

After considering the contentions of the parties and all the evidence, I agree with the General Counsel that the stated reasons for the discharge were a mere pretext for discriminatorily discharging the union steward in the Company's efforts to rid itself of Local 73. The Company relied on purported rules that it had never issued nor enforced. American Airlines Supervisor Taylor, the Company's own witness, testified that Teague referred to primary picketing "at the checkpoint," and positively denied that she threatened picketing in various locations

throughout the airport. It is undisputed that she was given permission to talk to Taylor, and that she was seeking his aid in preventing a strike. In view of the Company's efforts to replace Local 73 with an independent union and Supervisor Figueroa's conduct on the job, the evidence tends to support her good faith in concluding that his primary job was "to come in and bust the union," which she stated as a mere "estimation."

I find that the discharge letter was designed to conceal the Company's discriminatory motivation for discharging this union steward, who had recently refused to cooperate in bringing in an independent union or to abandon Local 73 for a promotion to management. I therefore find that the Company discriminatorily discharged Pia Teague on January 14, 1981, to discourage membership in Local 73, in violation of Section 8(a)(3) and (1) as alleged in the first complaint.

D. *Threat to Discharge Strikers*

On January 15, after the Company was notified that Local 73 had decided to strike, Operations Manager Douglas Sporer met with the first-shift preboard screening guards at their quitting time, 2 p.m. Supervisors Figueroa and Izzo were present.

As security guards Gloria Gonzalez, Lorraine Marshall, Miguel Monserrate, and Josephine Vivirito clearly recalled, Manager Sporer told them that if they went on strike the next day they would be terminated, but if they reported to work they would be paid double time. He also told the employees that Pia Teague had been terminated and was no longer their union steward. (Sporer did not testify. I discredit Izzo's claim that she heard little of what Sporer told the employees, and did not hear the threat of termination or promise of double time. I also discredit Figueroa's claim that he did not recall Sporer making the threat or promise. From their demeanor on the stand, neither of them appeared to be a candid witness.)

About 3:30 that afternoon on the second shift, Supervisor Figueroa called security guards Willie Curry, Alice DeJesus, and Darlene Harrison to the side and repeated the threat. As DeJesus and Harrison credibly testified, Figueroa told them that if they went on strike, they would be fired or terminated. (I discredit Figueroa's denials.)

I therefore find that on January 15, as alleged in the first complaint, Supervisors Sporer and Figueroa threatened to discharge employees if they engaged in a strike, and Sporer promised employees double time if they did not strike and reported to work, in violation of Section 8(a)(1) of the Act.

E. *Alleged Discharge of Strikers*

A major issue in this proceeding is whether the threats of discharge (if found) were "merely a tactical maneuver, intended to stop them from striking," or whether the Company did sever the strikers' employment.

After considering the parties' contentions and weighing all the evidence, I find that the Company did not carry out its discharge threats.

As Security Coordinator Betty Turner credibly testified, the Company had decided before the strike occurred that the employees would not be discharged for striking. Moreover, the evidence reveals that this decision was carried out.

After the strike began, the employees were not told that they had been discharged for striking. (I discredit the confused testimony of striker Vivirito about whether Figueroa later told her she was or was not fired, Tr. 135, 140–141.) They were given their last paycheck on the regular payday *without* the earned vacation benefits, which were paid during the strike upon request as they became due. The employees were not required to turn in their uniforms or identification badges. The Company informed the unemployment bureau that the employees were on strike, not discharged. Employees were reinstated without loss of seniority or benefits during the strike and at the end of the strike. (After the first complaint was issued, the Company sent out letters denying that the employees were discharged and offering those who received them unconditional reinstatement.) The termination form (the "Hourly Transaction Form," R. Exh. 12) was not filled out for any of the strikers. In contrast, discharged employees (such as Union Steward Teague) are paid in full, with any earned vacation pay; they are required to turn in their uniforms and badges; they lose their seniority; and the termination form is completed.

The General Counsel relies on Local 73 Representative Richard Wesley's credited testimony that on the first morning of the strike (outside the hearing of any of the strikers), Vice President Dern told him "it was a shame that all these people were terminated, they were good employees, but that they would never be able to return to the airport." (Tr. 39–40.) No company supervisor repeated this to any of the strikers. Evidently regarding it as a tactical strike maneuver, Local 73 did not mention striker discharges on its picket signs or in its handbills (R. Exhs. 5 & 6) or publication (R. Exh. 7).

I agree with the Company that the strikers were not discharged, and find that the allegation that 22 striking employees were unlawfully discharged in violation of Section 8(a)(3) and (1) must be dismissed.

F. *Discrimination Against Union Supporter*

1. Threat of discharge and reduced hours

Wheelchair escort Artis was working part time until December 18, the day after escort Tajoddin Saiyed quit. Supervisor Che Anderson assigned Artis to Saiyed's full-time shift, working 1:30 to 10 p.m. Later in December, Artis informed Anderson he was returning to school the next semester (registering January 16), but that he would be working his school hours around his working hours and would be able to continue working full time. (Tr. 260.) Anderson promised to give him as many hours as possible, without conflicting with his school schedule. (Tr. 274.)

The Christmas holiday peak, from the last 2 weeks in December through the first week in January, was the busiest time of the year for the wheelchair escorts. (Tr. 247.) During this time, Artis worked an average of over

41.5 hours a week. He was second from the top in seniority, and he continued to work full time (40.5 hours) the second week in January after the slow season began. A new employee, escort Ruben Burgos, began working the latter part of that week (working a 4-hour shift on January 14 and 15).

On January 16, the first day of the strike, Artis had permission from Supervisor Anderson to switch shifts with another escort for him to register in school. He worked 6.5 hours that day, and his regular 8 hours on Saturday, January 17. The next day (his regular day off), he joined his friends on the picket line. Before doing so, he telephoned Anderson and told her he would be picketing on his off days. (He had made friends with the strikers during the 7 months he had worked there as a security guard.) Anderson told him "to be careful, because she didn't think that a 40 cent raise making $3.35 an hour was worth losing my job over." (Tr. 255.) Particularly in view of the Company's January 15 threats to discharge employees if they went on strike, I find that Anderson's warning constituted at least an implied threat of discharge and violated Section 8(a)(1) as alleged in the first complaint.

Artis picketed from about 1:30 to 8 p.m. about 3 days a week, outside his work and school hours. He was going to school from 10 to 12:30 2 days a week (leaving him available to continue working his 1:30 to 10 p.m. shift on those school days) and around 6 or 7 p.m. 2 days a week (leaving him available to work the 7:30 to 4 p.m. shift on those days).

Supervisor Anderson began cutting Artis' hours on January 21. About that date, he telephoned her for his work schedule. Without giving any explanation, she had cut his scheduled 40 hours to 24 hours a week. For the first 4 weeks of the strike, he worked 29, 20, 25.75, and 24 hours (an average of about 24.7 hours a week). Despite his eagerness to work full time, he was never again scheduled to work a full 40 hours a week, and has worked that number of hours only when switching hours with another employee. (Tr. 275.)

Although he had the second highest seniority, Artis was often assigned to a 4-hour shift, while the newest employee with the least seniority, escort Burgos, was assigned to an 8-hour shift. Another escort, James Stewart, continued to be assigned to work full time. Furthermore, it is undisputed that the Company was assigning other students longer hours even though Artis was first in seniority among the students. (Tr. 278.)

The Company has given various explanations for Artis' cut in hours. At the trial its counsel argued that "this was a seasonal reduction which affected equally, in the same respect, all other that were working" (Tr. 26)—ignoring Burgos' increase in hours, the other students' longer hours, and Stewart's continued full-time schedule. At one place in its brief, the Company argues that "Artis' reduction in hours did not stem from his picketing activities but, rather, from a seasonal reduction in hours and an effort to accommodate his college schedule"—despite the fact that escort Burgos was hired after the slow season began, and Artis' school schedule permitted him to work full time. Later in its brief the Company argues that "the Respondent no longer needed as many employees on a shift" (again ignoring the hiring of a new employee); "Artis' hours were substantially similar to the other employees who worked for Respondent's wheelchair accounts" (ignoring Stewart's full-time schedule); and "The Respondent's alteration in his hours was, as he admits, at his request and not for participation in concerted activity" (despite Artis' request for continued full-time employment). The Company also argues in its brief, "There is no evidence in the record to show that Bernard Artis' hours were reduced as a result of his picketing activity." However, I take into consideration the following evidence in determining the Company's motivation for reducing Artis' hours after he began picketing in support of his striking friends.

2. Interrogation and threat of discharge

After the strike began, Operations Manager Sporer demonstrated his concern about support for Local 73 by interrogating Artis. It is undisputed that Sporer spoke to Artis at gate K-1, commented about his clothes ("that I dressed rather superb, better than the rest of the employees"), and then "asked me had I been approached by any union representatives, and I told him no, not for about two months" (referring to Local 73's attempt to organize the escorts when the Company "tried to sneak a union in the back," as discussed above). Without stating any reason for the inquiry, Sporer said, "Oh, good." (Tr. 256.) Sporer next interrogated Artis after learning that he had been picketing. It is undisputed, as Artis credibly testified, "he stopped me as I was coming through the checkpoint" and said, "I hear that you're picketing with the strikers." Artis admitted that he was. Sporer commented, "and you have the audacity to work for me?" and asked, "Why are you picketing with the strikers?" Artis answered, "I'm helping my friends on my off days." Thus, in this repeated interrogation, the operations manager of a company that had demonstrated its union animus (by assisting an independent union and threatening to discharge employees for striking) was asking questions that could affect the employee's continued employment, without having or stating any valid purpose for the interrogation and without giving any assurances against reprisals. *Fruehauf Corp.*, 247 NLRB 1405 (1980), affd. mem. 623 F.2d 710 (5th Cir. 1980). I find that the interrogation on both occasions was coercive and violated Section 8(a)(1) of the Act.

Artis' next conversation with a member of management about his picketing revealed that a higher official of the Company was concerned. He returned Supervisor Anderson's telephone call about January 20 and she told him "that she had heard that I was threatening to break people's legs." It is undenied that when he denied it, she said that Vice President Dern had told her, "that they're trying to find something to pin on me because I'm striking and working at the same time, which is making the company look bad," and it came down between her job and mine, that it would be mine because she had two kids." I find that this clearly constituted a threat of discharge, and violated Section 8(a)(1) of the Act as alleged in the first complaint.

The Company did not carry out this threat of discharge, but after Supervisor Anderson made this threat, she reduced Artis' hours.

After considering all the evidence and arguments, and after finding no merit to the Company's contentions that it reduced Artis' hours because of seasonal work, equal reductions in assigned work, accommodation to school schedule, fewer employees needed, substantially similar working hours, and compliance with Artis' own request, I find in agreement with the General Counsel that it is clear that the January 21 reduction in Artis' hours was in retaliation against him for picketing in support of the striking employees and violated Section 8(a)(3) and (1) of the Act.

CONCLUSIONS OF LAW

1. By discriminatorily discharging Pia Davis January 14 and reducing Bernard Artis' working hours January 21, 1981, because of their support of SEIU Local 73, the Company engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(3) and (1) and Section 2(6) and (7) of the Act.

2. By threatening to discharge employees if they went on strike and promising double time if they refrained from striking, the Company violated Section 8(a)(1).

3. By threatening to discharge a nonunit employee for joining in a striking union's picketing, the Company violated Section 8(a)(1).

4. By soliciting employee signatures on UBOA authorization cards, the Company unlawfully assisted UBOA Local 1 in violation of Section 8(a)(2) and (1).

5. By offering to grant a larger wage increase if the employees were not represented by SEIU Local 25, the Company violated Section 8(a)(1).

6. By encouraging a SEIU Local 73 union steward to join in independent union and by offering her a management position for the purpose of coercively discouraging support of SEIU Local 73, the Company violated Section 8(a)(1).

7. By engaging in coercive interrogation, the Company violated Section 8(a)(1).

8. The Company did not unlawfully discharge striking employees.

THE REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, I find it necessary to order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act.

The Respondent having discriminatorily discharged one employee and reduced the working hours of another, it must make the discharged employee whole for any loss of earnings and other benefits, computed on a quarterly basis from date of discharge until the date she was reinstated, less any net interim earnings, as prescribed in *F.W. Woolworth Co.*, 90 NLRB 289 (1950), and offer to restore the other employee's full-time employment and make him whole for the hours lost as result of the discrimination, paying each of them interest as computed in *Florida Steel Corp.*, 231 NLRB 651 (1977). See generally *Isis Plumbing Co.*, 138 NLRB 716 (1962).

[Recommended Order omitted from publication.]